

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 14147 of 1993

Dated: 23-09-2005

Between:

The Andhra Pradesh State Essential Commodities Corporation Limited,
kakinada, East Godavari District, represented by its Ex-officio District
Manager-cum-District Manager, A.P.State Civil Supplies Corporation Ltd.,
Kakinada, East Godavari District.

..... PETITIONER

AND

M. Suryanarayana and others.

.....RESPONDENTS

THE HON'BLE DR JUSTICE G.YETHIRAJULU

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WRIT PETITION NO : 14147 of 1993

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ORDER

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This writ petition is filed by the petitioner/Corporation to declare that the order

of the second respondent dated 26-10-1989 as null and void and to direct the first respondent to pay Rs.16,932-10ps for deterioration and damage of 90 Quintals of Atta, which was kept in the Super Bazar Godown, Kakinada due to the negligence of the first respondent.

The Collector, East Godavari, Kakinada framed the following charges;

1. "That he being a responsible Deputy Tahsildar entrusted with P.D.S. work and who is entrusted with the responsibility to credit the sale proceeds of rice to the respective accounts of Esscom., as well as F.C.I. misclassified the accounts and thereby he has to account for Rs.1,21,905.67ps to A.P.State Civil Supplies Corporation, Kakinada.
2. That he being a responsible officer entrusted with the P.D.S. work of Kakinada taluk and who is expected to deliver the stocks to the F.P.Shops in time, failed to do it and thus allowed a quantity of 90 quintals of atta deteriorated and become unfit for human consumption and thus caused loss of Rs.16,932-10 ps".

The learned counsel for the petitioner submitted that charge No.2 relates to the first respondent. The explanation of the first respondent to charge No.2 is as under;

"The delinquent stated that he was a Deputy Tahsildar but not godown assistant then. One Assistant Manager of Esscom., who is superior cadre was incharge of Esscom. Godown at Kakinada from the date of his taking charge as Special Deputy Tahsildar (CS) till 31-3-1983, and one Revenue Senior Assistant worked as godown Assistant from 1-4-1983 till he was relieved from the post of Special Deputy Tahsildar. The entire quantity of wheat products mentioned in the show cause notice were received by the godown Assistant, who is an Assistant Manager, Esscom. The atta relating to Kakinada taluq is only 50 Kgs per month as per the allotment orders for the month of February, 1983 issued in Collector's Procs. E1/10075/82, dated 3-3-1983. But as verified from the stock register maintained by the godown Assistant, it is found that 200 bags relating to the entire District was dumped in Esscom. Godown, Kakinada by the person who took delivery of the stocks from the flour mill for which the PDS D.T. Kakinada is not responsible. The other Taluk Officers had also not lifted the allotted quantities intended to them from the Esscom., godown. According to the above proceedings, the District Supply Officer and Ex.officio District Manager, Esscom., Kakinada was requested to arrange to lift and move the stocks of wheat products to the Tk. Godowns and deliver the stocks to the allottees nominated by the

Tahsildars. The persons responsible for the stocks can be verified from the truck sheets. When the atta stocks can be dumped even though it is not a consumable variety in East Godavari District, the dealers refused to take its delivery and the fact was brought to the notice of Tahsildar, Kakinada, by him who in turn reported the fact to the Collector on 14-3-1983 itself about the spoilage of stocks. Then, the Tahsildar, Kakinada requested that the wheat products maida and atta may be ordered to be disposed of in open market particularly to bakeries without incurring any loss to the Esscom. Hence, it is not true to say that he failed to submit a report in the matter. As no orders have been received till the end of May, 1983, he submitted a clear and specific report on 3-6-1983 stating that the atta was being spoiled due to long storage and requested to arrange for the disposal of atta. There is no negligence on his part so far as the stocks relating to Kakinada Tk., as the matter was brought to the notice of the superiors on 17-3-1983 by the Tahsildar on 1-4-1983 by godown Assistant and again on 3-6-1983 by him.

After inspecting of the godown by the then Joint Collector and District Supply officer, instructions were issued to him to dispose of maida and ravva.

It is not true that he did not inform the fact of damage of atta stocks to the District Supply Officer, as the Joint Collector in his weekly review, District Manager, Esscom., E.G.3/83, dated 26-6-1983 stated that P.D.S. Deputy Tahsildar, Kakinada reported that Ravva and Atta stocks were not fit for consumption, and he was directed to sent proposals so as to address the M.D., Esscom., for instructions. Had the higher authorities taken prompt action on his reports, the damage to the wheat products should not have occurred and the stocks should have been sold in open market to avoid loss to the Government. He stated that the godown assistant in whose custody the stocks were kept under lock and key has to maintain the stock registers. Since no stockiest was appointed by the APSEC Ltd., and one Assistant Manager of Esscom., was kept while he took charge as Deputy Tahsildar (CS) for Kakinada taluk who is looking after the godown and stock accounts, who is in superior cadre than the Deputy Tahsildar. He worked as godown Assistant till 1-4-1983. Since he was over burdened with 300 FP shops, he could not pay any attention on Esscom. godowns. The wheat products issued came into light in 3/83 when he was asked to relieve the Assistant Manager from the charge of Esscom., godown. One Sri A.P.Prakasarao, Senior Assistant was posted under PDS Deputy Tahsildar in 3/83 allotting certain monetary work to lessen the burden to the PDS Deputy Tahsildar, when he was asked to relieve Sri B. Gopalakrishna, Assistant Manager, Esscom., in 3/83, he found some 20 bags of ravva was completely spoiled and about 111 quintals of atta was found discoloured. The Assistant Manager, Esscom. informed him that another 90 quintals of atta was unloaded in super bazaar godown, as no space was available in Esscom., godown. He

further informed that when the taluk monthly quota is only 50 bags of atta, the entire District quota was unloaded in the taluk godown. As he was over burdened with the work, the District Supply Officer was pleased to order Sri A.P. Prakasarao, to take charge of the godown from Sri B. Gopalakrishna, Assistant Manager on 1-4-1983. Even though he turned out crores of rupees of business in Esscom. no sufficient staff was provided to him to have a proper check and supervision over the godown.

He finally stated that from the above facts, he is not at all responsible for the spoilage of said atta stocks kept in Esscom., godown or super bazar godown. He requested that in view of the above facts, the charges framed against him may be dropped.

The Collector gave the following findings;

“The contention that he was not a godown Assistant and not responsible for the stocks kept in godown does not appear to be correct. Being a Deputy Tahsildar to look after PDS work for entire Kakinada taluk, he is responsible for receipt of stocks and lifting of stocks by the F.P.shop dealers and for upkeeping the stocks. He was over all charge to the entire PDS for Kakinada taluk then. His responsibility can also be revealed from the stock register of atta maintained by him, as reported by District Manager, Esscom. even though the delinquent says that he has not maintained any stock registers. Because he was supposed to be responsible to upkeep the stocks kept in godown, besides other duties like writing of R.Os and sending the D.Ds to banks, he reported the condition of stocks to higher authorities. As could be seen from the records, the delinquent had reported the matter through the Tahsildar on 17-3-1983 to the D.S.O. Kakinada and the D.S.O., Kakinada has passed marginal orders on 21-3-1983 that “this is acceptable” then the spoiled stock of atta is Qtls. 2.00.

The contention that the entire stock of atta of qtls 200 pertaining to entire district was dumped into the godown appears to be not correct. Only 148.50 quintals of atta was received in 3/83, as against 50 bags allotted to Kakinada taluk in VI/10075/82, dt.3-3-1983, that only the delinquent reported the condition of stock that atta stock were spoiled. He has not reported that the stocks receipt in 3/83 were not in good condition. This discloses that the stocks pertain to 10/82, 11/82, 12/82, 1/83, 2/83 might have been spoiled. No doubt, the godown Assistant and the Assistant Manager, Esscom., in charge of the godown are responsible for not only in the matter of upkeeping the stocks but also for reporting the damage. At the same time, the PDS Deputy Tahsildar, who is in over all charge of the taluk cannot be absolved of the responsibility in this regard.

The argument that Kakinada is a heavy station like Rajahmundry

for the distribution of essential commodities to consumers through the F.P. shops numbering about 300 may be correct. It is also a fact that the various officers brought to the notice of the District Administration about the stagnation of the deteriorating condition of the wheat products from March, 1983 onwards and the District Administration as well issued instructions for the disposal of the stocks by way of circulars and also in the vigilance meetings. As seen from the correspondence the quantum of damage as on 1-4-1983 was 20 bags of ravva and 2 bags of atta. By 24-5-1983 on which date the Assistant Manager, Esscom., submitted his report, a quantity of quintals 3.18 of ravva was completely damaged and 200 quintals of atta was reported to be deteriorating. Even in the alleged report, dated 3-6-1983 of the P.D.S. Deputy Tahsildar, Kakinada he proposed for writing up of 8.52 kgs of ravva from the account and requested for the arrangements for disposal of the atta stocks through the PDS Deputy Tahsildar, Tajahmundry to some traders of Tadepalligudem. Evidently, specific instructions were issued to the Deputy Tahsildar from the District Administration on 27-4-1983, 27-5-1983 and 31-5-1983 for the reconditioning of stock of ravva and atta and for their disposal in the open market to the bulk consumers like bakeries, hoteliers etc. Even though it may be a fact that atta is not a consumable variety in East Godavari District, the Deputy Tahsildar should have taken appropriate action for the disposal of stocks.

The District Supply Officer has reported that the then District Supply Officer, who enquired into the matter reported that the delinquent being a responsible officer entrusted with PD system of Kakinada taluk and expected to deliver the stocks to the F.P.shops in time, has allowed the wheat products (ie.,) atta to deteriorate and become unfit for human consumption and failed to account properly for the stocks in the godown cause financial loss to the APSECC Ltd., amounting to Rs.16,932-10 ps that Sri M. Suryanarayana, the then PDS Deputy Tahsildar, Kakinada is responsible for the above loss and recommended to recover the cost of damaged stock besides taking disciplinary action against the delinquent. The District Supply Officer further stated that it is the responsibility of the delinquent for upkeeping the stocks kept in godown and to take timely action to dispose of stocks and to take adequate measures for proper maintenance. The delinquent was incharge of the super bazaar godown for the erstwhile taluk used to operate the transaction of receipts and deliveries of the commodities stores in that godown. The 90 qtls of atta spoiled in super bazaar godown, Kakinada for which the delinquent was responsible, the Managing Director, APSECC Ltd., is pressing for the recovery of cost of above spoiled stock from the delinquent at once stating that the Government is pointing out for the delay in recovering the cost of spoiled wheat product even after lapse of 5 years. The District Supply Officer finally requested for recovery of the entire value of atta

quintals 90.00 which comes to Rs.16,932-10 from the delinquent as per G.O.Ms.No.261 (Rev.(H) Dept.) dated 7.3.1987 which speaks as follows;

“In exercise of the powers concerned by the proviso to sub-sec (i) of Sec.52-A of the A.P.Revenue Recovery Act, 1984 (Act II of 1864) the Governor of A.P., hereby specifies that all sums due to the APSECC Ltd., and the APSCSCL Ltd., from the stockists or F.P.Shop dealers or any other persons or agency may be recovered in the same manner as “arrears of land revenue”.

The District Manager, Esscom., Kakinada concluded that Sri M. suryanarayana, the then PDS D.T. Kakinada is responsible for deterioration of 90 quintals atta and caused a loss of Rs.16,932-10ps. Since the charges proved beyond doubt, it was provisionally concluded to recover the amount of Rs.16,932-10ps under RR Act from Sri M. Suryanarayana, the then PDS Deputy Tahsildar, Kakinada which would meet the ends of justice.

Sri M.Suryanarayana, AHHC(G) Collectorate, kakinada was directed in this office reference 6th read above to show cause in writing as to why the punishment indicated in the provisional findings (ie., recovery of Rs.16,932-10 ps) should not be inflicted upon him. He was also given an opportunity for personal representation on 31-7-1988. Accordingly, he submitted his explanation dated 25-7-1988. The explanation of the delinquent is as follows:-

“The delinquent stated that his explanation dated 20-6-1988 submitted by him for the charge memo may be read as part of this explanation, that the average monthly off take of atta in the erstwhile Kakinada taluk was only 37 quintals while the monthly allotment is 50 quintals that 148.50 quintals of atta was unloaded in the godown at Kakinada, during 3/83 when there is an opening balance of 56.74 quintals in the godown, that it is evident of allotment relating to other taluks was also dumped in Kakinada godown in 3/83 and that it was the responsibility of the District Manager, Esscom., to see that allotment of other taluks is lifted by concerned Deputy Tahsildar properly. He further stated that Assistant Manager, Esscom., is a Gazetted Officer while the PDS Deputy Tahsildar is non-gazetted who is not competent to supervise the godown which was managed by a Gazetted Officer. It is also stated that the Assistant Manager of Esscom. might have got unloaded the 90 quintals of atta in the super bazaar due to lack of accommodation in the godown and the PDS Deputy Tahsildar cannot be held responsible for deterioration of stocks when the stock points are not under his control and he did not maintain any stock register of the depots.”

On perusal of the explanation filed by the delinquent, it is not at all

convincing, hence rejected and the punishment indicated in the provisional finding is confirmed.

I, therefore, finally order to impose the punishment of recovery of the amount of Rs.16,932-10 under R.R. Act from Sri M. Suryanarayana, the then PDS D.T. Kakinada, and present AHHC (G) Collectorate, Kakinada as per G.O.Ms.No.261 Revenue (H) Department, dated 27-3-1987.

The District Manager, Esscom. Kakinada is requested to take immediate necessary action for recovery of the said amount.

An appeal lies to the Commissioner of Land Revenue, A.P., Hyderabad within a period of 90 days from the date of receipt of this order by the delinquent.”

The first respondent being aggrieved by the order of the Collector dated 13-12-1988, preferred an appeal to the second respondent-Commissioner of Land Revenue, Hyderabad. The second respondent allowed the appeal by giving following reasons:

“The orders of the Collector, East Godavari dated 13-12-1988 is set aside, among others, on the following grounds;

- i. There were no specific orders to the effect that the delinquent DT was kept incharge of the stocks of wheat products in the super bazaar godown.
- ii. The DM, Escom., could not point out to the Collector when asked to do so which official was made responsible for maintaining the stock register of atta in the super bazaar godown.
- iii. The delinquent DT wrote to the DM Escom., on 3-6-83 besides the Tahsildar, Kakinada that there was no demand for atta and the stocks were deteriorating.
- iv. Collector had admitted in his Ref.A5/3621/89 dated 26-8-1989 that there is no reason to find fault with any one for the damage of the wheat product in question whose off take was poor.
- v. From the ref. of JC, EG, Dis.No.VI/10075/82, dated 3-8-83 the fact is brought out that the stocks of atta etc., kept in super bazaar but also of other taluks.

The appeal is allowed.”

After going through the material on record, it is found that the first respondent informed the authorities concerned about the non-despatch of atta from the

stocks of the godown and the deteriorating condition of the stock. There is no other cause shown for the damage of atta except that it was not despatched to the fair price shops immediately. In the light of the explanation given by the first respondent and in the light of the reasons given by the second respondent in setting aside the order of the Collector, I do not find any grounds to interfere with the order of the second respondent and there are no merits in the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

23-09-2005

sj